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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/082,643	02/25/2002	Willi Kaiser	070191-0322 (31-HL-6088)	3659
7590	08/08/2006		EXAMINER LE, LINH GIANG	
Joseph D. Kuborn ANSRUS, SCEALES, STARKE & SAWALL 100 EAST WISCONSIN AVENUE, SUITE 1100 MIWAUKEE,, WI 53202			ART UNIT 3626	PAPER NUMBER

DATE MAILED: 08/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/082,643	KAISER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Linh-Giang Le	3626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>052802</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Notice to Applicant***

1. This communication is in response to the amendment filed on 3/27/06. Claims 1-27 are pending.

### ***Claim Rejections - 35 USC § 102***

2. Examiner maintains that claims 1-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Kirshner (6,322,504), for the same reasons given in the previous Office Action.

(A) As the claims have not been amended, Applicant's arguments with respect to the aforementioned rejection are addressed below in the section entitled "Response to Argument."

### ***Response to Arguments***

3. Applicant's arguments filed 3/27/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the Amendment filed 3/27/06.

(A) At page 3 of the 3/27/06 Amendment, Applicant argues that Kirshner does not teach calculating a likelihood of the presence of a condition of a patient's heart based on at least one parameter value and further does not teach calculating a percentage

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probability as is taught and claimed in the present invention. Examiner respectfully disagrees.

In response, Examiner refers to Kirshner, Col. 12, lines 8-13, only to show that Kirshner teaches a method to determine the likelihood of the presence of a condition of a patient's heart based on at least one parameter value. Examiner interprets a "risk factor summary" as a tool to determine the likelihood of the presence of a condition of a patient's heart. Examiner further interprets a "positive risk factor" to be at least one parameter value.

Examiner further refers to a separate passage in Kirshner to show that Kirshner teaches calculating a percentage probability. Kirshner Col. 14, lines 25-35, as indicated in the 3/1/2006 Office Action on page 3, teaches determining that a female patient has a 6% chance of developing CAD. Examiner respectfully submits that this is a probability value representing the likelihood of the presence of a condition.

(B) Applicant's next argues that Kirshner does not teach comparing at least one parameter value of the biomedical signal with all corresponding parameter values stored in a database, wherein all of the corresponding parameter values include collected parameter values from a plurality of additional patients, and not just the subject patient's data. Examiner again respectfully disagrees.

In response, Examiner respectfully submits that independent claims 1, 12, 17, and 23 only claim comparing at least one parameter value of the bio-medical signal with all corresponding parameter values stored in a database. These independent claims do

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not contain the limitation that the values include collected parameter values from a plurality of additional patients. Thus, Examiner maintains the rejections based on only on what is disclosed in the claims.

In the 3/1/2006 Office Action page 3, Examiner refers to Kirshner Fig. 8(2) and Col. 14, lines 60-65 to show that Kirshner teaches reading at least one parameter value of a bio-medical signal of a patient. Examiner interprets "collects ECG and cholesterol" on Fig. 8(2) as reading at least one parameter value of a bio-medical signal of a patient. Kirshner (col. 14, lines 60-65) further teaches that these parameter values include fasting blood sugar, lipid levels, left ventricular hypertrophy, hemoglobin and resting ECG information. These parameter values are also described as risk factors.

Next Examiner states that Kirshner (Col. 14, lines 34-36 and Col. 17, lines 29-57) teaches comparing at least one parameter value of the bio-medical signal with all corresponding parameter values stored in a database. Kirshner (Col. 14, lines 34-36) teaches a "probability of diagnosis database" and Examiner interprets this to be the database containing "corresponding parameter values." Kirshner (Col. 17, lines 29-57) then teaches comparing "risk factors."

Examiner states on page 3 of the 3/1/2006 Office Action that the "risk factor" is the value to be calculated and compared. Once again, Kirshner (Col. 14, lines 60-65) describes different risk factors that Examiner interprets to be parameter values of a bio-medical signal of a patient. Then Kirshner (Col. 27, lines 29-57) teaches comparing these parameter values.

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(C) Applicant's arguments on pages 3-6 of the 3/27/06 Amendment all continue to argue that Kirshner does not teach comparing at least one parameter value of the biomedical signal with all corresponding parameter values stored in a database. Examiner maintains the rejection based on Kirshner for the reasons stated above.

### ***Conclusion***

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michelle Linh-Giang Le whose telephone number is 571-272-8207. The examiner can normally be reached on 8 AM - 5PM, M-F.

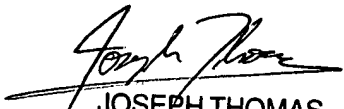
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



LLe



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